

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No: 032931/0235

In re patent application of
MURDIN, Andrew D. *et al.*

Serial No.: 09/662,812

Group Art Unit: 1645

Filed: September 15, 2000

Examiner: Virginia Allen Portner

For: CHLAMYDIA ANTIGENS AND CORRESPONDING DNA FRAGMENTS
AND USES THEREOF

RESPONSE TO RESTRICTION REQUIREMENT

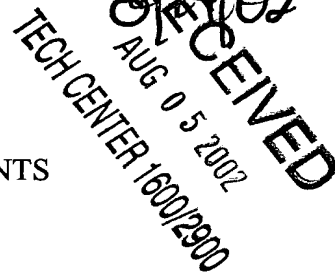
Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated July 1, 2002, Applicants hereby elect the claims of Group I (claims 1-14, 19, 35 and 36), drawn to DNA, vector, host cell, probes and primers, for prosecution in the subject application, **with traverse**.

It is respectfully submitted that the subject matter of the claims is sufficiently related that a thorough search for the subject matter of a single independent claim would necessarily encompass a search for the subject matter of the remaining claims.

Thus, it is respectfully submitted that the search and examination of the entire application could be performed without serious burden. MPEP §803 clearly states that "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." (emphasis added). It is respectfully submitted that this policy should apply in the present application to avoid unnecessary delay and expense to Applicants in duplicative examination by the Patent Office.



With respect to the species election, Applicants provisionally elect Species 1 (SEQ ID NOs:1 and 2) with traverse.

Applicants traverse the species election requirement on the grounds that the search and examination of the six allegedly distinct species of Group I is not unduly burdensome. In particular, it is noted that the Examiner has failed to demonstrate that the recited six species are classified in different classes or subclasses. Moreover, 37 C.F.R. § 1.141 provides that a reasonable number of species may still be claimed in one application if the other conditions of the rule are met; *i.e.*, provided that the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all of the limitations of the generic claim.

Applicants' claimed invention meets all of the requirements of 37 C.F.R. § 1.141 and, therefore, the species election requirement for the listed sequences should be withdrawn.

Finally, Applicants presume that the Examiner will follow the species election and examination procedures delineated in MPEP 809.02(c).

The Examiner is respectfully requested to reconsider and withdraw the Restriction and Species Election Requirement and to examine all the claims now pending in this application.

In accordance with this election with traverse, applicants reserve all rights in the non-elected claims, including the right to file one or more divisional applications covering the subject matter thereof.

If there are any fees due in connection with the filing of this response, please

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PATENT
Attorney Docket No. 032931/0235

of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,



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Dated: *Aug. 1, 2002*

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